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Hearing Date: March 23, 2016

Time: 10:00 a.m.

Objection Deadline: March 16, 2016

Time: 5:00 p.m.

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES, LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

DAVID IVAN LUSTIG,

Defendant.

Adv. Pro. No. 10-04554 (SMB)

**DECLARATION OF NICHOLAS J. CREMONA IN SUPPORT OF THE
TRUSTEE'S MOTION FOR ENTRY OF AN ORDER PURSUANT TO
RULES 15 AND 21 OF THE FEDERAL RULES OF CIVIL PROCEDURE, AS
INCORPORATED BY RULES 7015 AND 7021 OF THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE, GRANTING THE TRUSTEE LEAVE TO FILE A
FIRST AMENDED COMPLAINT AND FOR RELATED RELIEF**

NICHOLAS J. CREMONA hereby declares as follows:

1. I am a member of the New York Bar and a partner at Baker & Hostetler LLP, counsel for plaintiff Irving H. Picard, as trustee (the "Trustee") for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the estate of Bernard L. Madoff.

2. As an attorney of record in these proceedings, I am fully familiar with the facts set forth herein based either upon my own personal knowledge or upon information conveyed to me that I believe to be true.

3. I make this Declaration to transmit to the Court true and correct copies of documents and provide information in connection with the Trustee's Motion for Entry of an Order Pursuant to Rules 15 and 21 of the Federal Rules of Civil Procedure, as Incorporated by Rules 7015 and 7021 of the Federal Rules of Bankruptcy Procedure, Granting the Trustee Leave to File a Second Amended Complaint and For Related Relief (the "Motion").

4. On December 22, 2015, Trustee's counsel sent a proposed Stipulation and Order Applying the Omnibus Motion to Dismiss Decision to this Adversary Proceeding and Dismissing Certain Claims by e-mail to counsel for defendants, Richard Signorelli and Bryan Ha, in order to obtain such parties' consent. On January 5, 2016, Richard Signorelli responded that due to personal issues, he would need to address the Trustee's request the following week. Trustee's counsel followed up with defendants' counsel on January 11, 15, and 25, 2016. On January 26, 2016, Bryan Ha reported that Richard Signorelli was still dealing with personal issues, and

would not have the capacity to consider the Trustee's request until the second half of February or early March. Defendants have not yet provided a response to the Trustee's request for consent.

5. Attached hereto as Exhibit A is the Trustee's proposed First Amended Complaint for review by the Court. Paragraphs 2 and 33 through 35 contain streamlined claims regarding the initial transfers sought to be avoided and recovered, as further discussed in the accompanying Memorandum of Law in Support of the Trustee's Motion for Entry of an Order Pursuant to Rules 15 and 21 of the Federal Rules of Civil Procedure, as Incorporated by Rules 7015 and 7021 of the Federal Rules of Bankruptcy Procedure, Granting the Trustee Leave to File a First Amended Complaint and For Related Relief.

6. Attached hereto as Exhibit B is the Trustee's Proposed Order in connection with the Motion.

7. No prior application or motion for similar relief has been made to this or any other court.

Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury that the foregoing statements made by me are true and correct.

Dated: New York, New York
March 9, 2016

/s/ Nicholas J. Cremona
Nicholas J. Cremona